

**REMARKS**

Claims 31-52 are pending in this application. By this Amendment, claims 31, 40, 41, 43 and 49-51 are amended, and claims 32, 42, 44 and 48 are cancelled without prejudice to or disclaimer of the subject matter contained therein. Reconsideration in view of the above amendments and following remarks is respectfully requested.

Entry of the amendments is proper under 37 CFR §1.116 since the amendments: (a) place the application in condition for allowance (for the reasons discussed herein); (b) do not raise any new issue requiring further search and/or consideration, since the amendments incorporate features from a dependent claim that have already been examined; and (c) place the application in better form for appeal, should an appeal be necessary. Entry of the amendments is thus respectfully requested.

Applicants thank the Examiner for the indication that claims 37 and 52 contain allowable subject matter.

The Office Action rejects claims 31-35, 38-41 and 43-51 under 35 U.S.C. §103(a) over Morrison et al. (U.S. Patent No. 5,063,685) (Morrison) in view of Reilly (U.S. Patent No. 5,826,346), and claims 31-51 under 35 U.S.C. §103(a) over Nelle (U.S. Patent No. 5,511,321) in view of Reilly. Applicants respectfully traverse these rejections.

In particular, Applicants assert that neither the combination of Morrison and Reilly nor the combination of Nelle and Reilly discloses or suggests a measurement apparatus comprising *inter alia* a scale track holding the scale, the track having magnetisable material for causing magnetic attraction force between the scale and the track, the scale being spaced from the magnetisable material, the attraction force between the scale and the magnetisable material allowing relative movement between the scale and the track, as recited in independent claims 31, 43 and 51. The "spaced" feature is similar to the content of former claim 42.

The Office Action appears to recognize that neither Morrison nor Nelle discloses a scale spaced from magnetisable material of a track. However, the Office Action asserts that Reilly discloses such a feature (Office Action, page 6, lines 1-2). This is not correct.

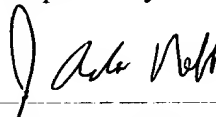
Reilly discloses a measuring gauge with a ruler 60 and a magnet 62 (Fig. 2) which serves to hold the steel ruler or scale in place (column 3, lines 61-62). Fig. 2 shows that the locking cams 64 and 66 and the magnetic strip 62 are in engagement with the ruler 60 in order to keep the ruler in place. Fig. 2 clearly shows that there is no space between the magnet 62 and the ruler 60. In fact, inserting a space between the ruler and the magnet would weaken the attractive force between the magnetic strip and the ruler, which would result in the opposite effect than the one intended by Reilly, i.e., "holding the steel ruler or scale in place". Moreover, Reilly's measuring gauge is designed to be used in a workshop in metal working or wood working (column 1, lines 18-21), hence, securing the holder in place is a crucial part of Reilly's invention. Accordingly, inserting a space between the magnetic strip and the ruler which would weaken the ruler's securement to the magnetic strip, would not have been obvious. As such, Reilly fails to cure the deficiencies of Morrison and Reilly in disclosing or rendering obvious the subject matter of independent claims 31, 43 and 51 and their dependent claims.

For at least these reasons, Applicants assert that independent claims 31, 43 and 51 define patentable subject matter. Applicants also assert that the claims dependent on independent claims 31, 43 and 51, for at least their dependence on these allowable claims, also define patentable subject matter. Accordingly, Applicant respectfully requests that the rejections of claims 31, 43 and 51, and their dependent claims, be withdrawn.

In view of the foregoing, it is respectfully submitted that this application is in condition for allowance. Favorable reconsideration and prompt allowance of claims 31-52 are earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in even better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number set forth below.

Respectfully submitted,



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Attachment:  
Petition for Extension of Time

Date: October 23, 2003

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